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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,744	06/11/2001	Andre Valmont LeBlond	DDY/46	2914

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EXAMINER

BATSON, VICTOR D

ART UNIT PAPER NUMBER

3671

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/878,744

Applicant(s)

LEBLOND ET AL.

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-10, 14-34, 37, 41-44, 46/14, 47, 48, 51-58 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 11-13, 35, 36, 38-40, 45, 46/1, 49, 50, 59 and 60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Claim Objections***

Claim 49 is objected to because of the following informalities: Claim 49 has an incorrect indicator as being "Previously Presented", while the claim is being currently amended. The examiner encourages applicant to closely review all claims. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1,2,11,12,13,35,36,45,46(as it depends from claim 1),49,50,60 are rejected under 35 U.S.C. 102(b) as being anticipated by MacQueen (5,485,690).

MacQueen discloses a snowplow and snowplow mount assembly having all of applicant's claimed structure including a mount frame 16, a snowplow frame 12, arms (considered the outer ends of pipe 72) and receivers (considered the area that receives the ends of pipe 72, which include 94, 94', 94a, 94a', 94b, 94b'), first and second latch pins 70 & 70' normally biased toward a latched position by spring 78, and a latch lever 76 operably associated with the latch pins for simultaneously freeing and moving the latch pins as shown in figures 7 & 8 and described in cols 7 & 8. Concerning claim 2, members 88 and 88' are considered the pin extractor. Concerning claims 35 & 36, given the structure of MacQueen, the claimed method steps would be inherently performed when using the snowplow and mount assembly of MacQueen.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-40,59 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacQueen (5,485,690) in view of DiClementi et al. (6,088,923).

MacQueen discloses a snowplow and mount assembly as described previously, but lacks a lift cylinder with connecting structure including resilient and non-resilient portions. MacQueen uses a winch 18 and cable 226 to lift the plow blade.

DiClementi et al. discloses the use of a lift cylinder 44, with connecting structure including resilient & non-resilient portions. Therefore, DiClementi et al. shows that a lifting structure including a lift cylinder and resilient and non-resilient portions is an equivalent structure known in the art. Therefore, because these two lifting means were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the lifting structure of DiClementi et al. for the winch and cable lifting structure of MacQueen.

Concerning claim 59, although MacQueen discloses arms on the lift frame and receivers on the mount frame, it would have been obvious to form the assembly with the receivers on the lift frame and arms on the mount frame since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

***Allowable Subject Matter***

Claims 3-10,14-34,37,41-44,46(as it depends from claim 14),47,48,51-58 are allowed.

***Response to Arguments***

Applicant's arguments filed 6/4/04 have been fully considered but they are not persuasive. Applicant argues that the outer ends of MacQueen's pipe 72 are "received" upon lateral, i.e. transverse relative movement there between and not upon relative longitudinal movement as claimed. Applicant's arguments however are more limiting than the claims themselves. The examiner notes that the longitudinal movement is not specifically defined in the claims. It is further noted that the pipe 72 has a longitudinal axis, and when actuated moves in the longitudinal direction of the pipe 72 itself. Therefore, MacQueen is still considered to read on the claims as set forth in the rejection above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3671

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 6, 2004



Victor Batson  
Primary Examiner  
Art Unit 3671